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BEFORE THE ARIZONA CORPORATION COMMISSION

DOCKETED

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DOCKETED BY

WILLIAM A. MUNDELL
CHAIRMANJIM IRVIN
COMMISSIONERMARC SPITZER
COMMISSIONER

IN THE MATTER OF THE APPLICATION OF
THE UNION PACIFIC RAILROAD COMPANY
TO CONSTRUCT A SECOND SET OF TRACKS
AT TWO EXISTING CROSSINGS OF THE
UNION PACIFIC RAILROAD COMPANY AT
40TH STREET AND 48TH STREET IN THE CITY
OF PHOENIX, MARICOPA COUNTY, ARIZONA,
M.P. 910.78 AND 911.48, RESPECTIVELY.

DOCKET NO. RR-03639A-01-0544

DECISION NO. 64244**OPINION AND ORDER**

DATES OF HEARING:

August 2, 2001 and October 16, 2001

PLACE OF HEARING:

Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE:

Marc E. Stern

APPEARANCES:

Mr. Jason Gellman, Staff Attorney, Legal
Division, on behalf of the Utilities Division of
the Arizona Corporation Commission.

BY THE COMMISSION:

On July 9, 2001, the Union Pacific Railroad Company ("Railroad") filed with the Arizona Corporation Commission ("Commission") a request for approval to add a second set of tracks at two of its crossings at 40th Street and 48th Street in the City of Phoenix ("City"), Maricopa County, Arizona, at milepost 910.78 and 911.48 respectively ("Application").

On July 11, 2001, by Procedural Order, the Application was set for hearing on August 2, 2001 and the Railroad was ordered to notify any interested party of the Application and the hearing.

At the outset of the proceeding on August 2, 2001, the witness for the Commission's Utilities Division, Mr. Robert Starkey, indicated that the Railroad had failed to provide certification of notice of the proceeding to the City and any other interested party by providing them with a copy of the Application and the Commission's Procedural Order. Mr. Starkey also indicated that an agreement on the construction had not been reached between the City and the Railroad.

On August 3, 2001, the proceeding was continued indefinitely until proper notice was provided to the City and any other interested party, after which a hearing would be scheduled.

1 On September 18, 2001, the City filed a letter indicating that it is not opposed to the
2 Application.

3 On September 24, 2001, by Procedural Order, the proceeding was scheduled for hearing.

4 On October 16, 2001, a full public hearing was held before a duly authorized Administrative
5 Law Judge of the Commission at its offices in Phoenix, Arizona. At the conclusion of the hearing,
6 the matter was taken under advisement pending submission of a Recommended Opinion and Order to
7 the Commission.

8 * * * * *

9 Having considered the entire record herein and being fully advised in the premises, the
10 Commission finds, concludes, and orders that:

11 FINDINGS OF FACT

12 1. On July 9, 2001, the Railroad filed an Application in which it requested an Opinion
13 and Order from the Commission to approve an addition of a second set of tracks at two of its existing
14 crossings at 40th Street and 48th Street in the City of Phoenix at milepost 910.78 and 911.48
15 respectively.

16 2. Following an initial hearing on August 2, 2001, the proceeding was continued to
17 October 16, 2001.

18 3. The Railroad provided notice to all interested parties of the Application and hearing
19 thereon as ordered in the Commission's Procedural Orders. Subsequently, no objections to the
20 Application were received by the Commission.

21 4. The Application provides for the Railroad to add a second set of tracks that will utilize
22 the existing flashing lights and gates which are already in use at two existing crossings in the City.

23 5. Staff testified that the cost for the additional set of tracks as provided in the
24 Application is proper.

25 6. Staff has recommended that the Application be approved.

26 CONCLUSIONS OF LAW

27 1. The Commission has jurisdiction over the Railroad and over the subject matter of the
28 Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and

1 40-337.01.

2 2. Notice of the Application was provided in accordance with the law.

3 3. The additional set of tracks at M.P. 910.78 and 911.48 is necessary for the public's
4 convenience and safety.

5 4. The Application should be approved as recommended by Staff.

6 5. After the addition of the second set of tracks, the Railroad should maintain the
7 crossing in accordance with A.A.C. R14-5-104.

8 **ORDER**

9 IT IS THEREFORE ORDERED that the Union Pacific Railroad Company's Application is
10 hereby approved.

11 IT IS FURTHER ORDERED that the Union Pacific Railroad Company shall complete the
12 crossing upgrade as described in the Application within fifteen months from the effective date of this
13 Decision.

14 IT IS FURTHER ORDERED that the Union Pacific Railroad Company shall notify the
15 Commission, in writing, within ten days of both the commencement and the completion of the second
16 set of tracks, pursuant to A.A.C. R14-5-104.

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1 IT IS FURTHER ORDERED that upon completion of the crossing upgrade, the Union Pacific
2 Railroad Company shall maintain the crossing in compliance with A.A.C. R14-5-104.

3 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

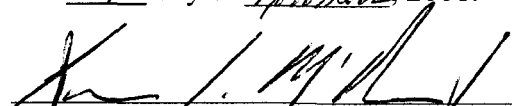
4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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7 CHAIRMAN

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10 COMMISSIONER

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12 COMMISSIONER

13 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
14 Secretary of the Arizona Corporation Commission, have
15 hereunto set my hand and caused the official seal of the
16 Commission to be affixed at the Capitol, in the City of Phoenix,
17 this 29th day of November 2001.

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19 BRIAN C. McNEIL
20 EXECUTIVE SECRETARY

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1 SERVICE LIST FOR: UNION PACIFIC RAILROAD COMPANY

2 DOCKET NO.: RR-03639A-01-0544

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